

AMENDED IN ASSEMBLY SEPTEMBER 12, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1479**

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**Introduced by Assembly Member Mendoza**

February 23, 2007

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~~An act to amend Section 24210 of the Business and Professions Code, relating to alcoholic beverages. An act to amend Sections 17175, 94120, and 94125 of the Education Code, to amend Sections 8869.83, 15433, 15434, and 16480.1 of, and to add Section 8869.94 to, the Government Code, to amend Sections 44515, 44519, and 50199.8 of the Health and Safety Code, and to amend Section 26008 of the Public Resources Code, relating to state bodies.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1479, as amended, Mendoza. *State bodies: governance.* ~~Alcoholic beverages: licensees.~~

(1) Existing law establishes in state government the California Health Facilities Financing Authority, the California Debt Limit Allocation Committee, the Pooled Money Investment Board, the California Educational Facilities Authority, California School Finance Authority, the California Pollution Control Financing Authority, the California Alternative Energy and Advanced Transportation Financing Authority, and the California Tax Credit Allocation Committee, with specified members, duties, and authority, including the authority to appoint an executive director.

This bill would authorize these entities, as specified, to delegate by resolution to one or more of its members or its executive director powers and duties that it may deem proper, authorize its executive director to appoint a deputy executive director, and, in the absence of the executive

*director, authorize the chairperson of the entity to appoint a deputy executive director. With respect to each specified entity of which the Director of Finance is a member, this bill would authorize the director to designate a deputy or other official to represent and act for the director at all meetings of that entity.*

*(2) Existing law establishes in state government the California Debt Limit Allocation Committee with duties that include annually determining a state ceiling on the aggregate amount of private activity bonds that can be issued and allocating that amount among state and local agencies. Existing law, the Administrative Procedure Act, sets forth procedures a state agency is required to follow when adopting, amending, or repealing any regulation, including providing public notice and time for public comment, with exceptions for emergency regulations in the case of a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.*

*This bill would authorize the committee to adopt, amend, or repeal any regulation within its authority under the procedures for emergency regulations and would declare that the adoption, amendment, or repeal of any regulation by the committee is conclusively presumed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare.*

~~The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon, alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Under existing law, the Department of Alcoholic Beverage Control may delegate the power to hear and decide with regard to suspension and revocation of licenses to an administrative law judge of the Office of Administrative Hearings appointed by the director of the department for the hearing, as provided.~~

~~This bill would provide that when the Department of Alcoholic Beverage Control chooses to delegate its power to an administrative law judge for a hearing, the licensee shall have the right to reject the director's administrative law judge selection, and instead have an administrative law judge appointed by the Office of Administrative Hearings, as provided. This bill would additionally provide that if the licensee chooses to have the office appoint an administrative law judge, all costs of using the administrative law judge shall be borne by the licensee, unless the administrative law judge decides against the~~

~~department on all of the allegations in the accusation, in that event, the department shall bear the costs.~~

~~This bill also makes a technical, nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 17175 of the Education Code is amended*  
2     *to read:*

3     17175. (a) Upon the first appointment of its members, and  
4     thereafter on or after March 31 of each year, the authority shall  
5     elect from its members a vice chairperson and a secretary-treasurer,  
6     who shall hold office until the following March 31, and shall  
7     continue to serve until their successors have been elected.

8     (b) On behalf of the authority, the chairperson shall appoint an  
9     executive director, who shall not be a member of the authority,  
10    and who shall serve at the pleasure of the authority. The executive  
11    director shall receive the compensation fixed for that purpose by  
12    the authority. *The authority may, by resolution, delegate to one or*  
13    *more of its members or its executive director powers and duties*  
14    *that it may deem proper.*

15    The authority may delegate to the executive director the power  
16    to enter contracts on behalf of the authority. *The executive director*  
17    *may appoint a deputy executive director. In the absence of the*  
18    *executive director, the chairperson may appoint a deputy executive*  
19    *director.*

20    *SEC. 2. Section 94120 of the Education Code is amended to*  
21    *read:*

22    94120. (a) There is in the state government an authority known  
23    as the California Educational Facilities Authority. The authority  
24    constitutes a public instrumentality and the exercise by the  
25    authority of the powers conferred by this chapter shall be deemed  
26    and held to be the performance of an essential public function.

27    (b) The authority shall consist of five members: the Director of  
28    Finance, the Controller, the Treasurer, who shall serve as  
29    chairperson of the authority, and two members appointed by the  
30    Governor to serve for terms of four years; provided that the terms  
31    of the members first appointed shall be arranged by the Governor

1 so that such terms shall expire on April 30 in different years. One  
2 of the members appointed by the Governor shall be affiliated with  
3 a public institution of higher education as a governing board  
4 member or in an administrative capacity and the other member  
5 shall be affiliated with a private institution of higher education as  
6 a governing board member or in an administrative capacity. Each  
7 member shall hold office for the term of his or her appointment  
8 and shall continue to serve during the term of his or her successor  
9 unless and until his or her successor shall have been appointed and  
10 qualified. Any vacancy among the members appointed by the  
11 Governor shall be filled by appointment for the unexpired term  
12 only. A member of the authority shall be eligible for reappointment.

13 (c) Any member of the authority appointed by the Governor  
14 may be removed from office by the Governor for cause after a  
15 public hearing.

16 (d) The members of the authority shall serve without  
17 compensation, but the authority may reimburse its members for  
18 necessary expenses incurred in the discharge of their duties.

19 (e) The authority, upon the first appointment of its members  
20 and thereafter on or after April 30 in each year, shall annually elect  
21 from among its members a vice chairperson who shall hold office  
22 until April 30 next ensuing and shall continue to serve during the  
23 term of his or her successor unless and until his or her successor  
24 shall have been appointed and qualified.

25 (f) *The Director of Finance may designate a deputy or other*  
26 *official in the Department of Finance to act for him or her and*  
27 *represent him or her at all meetings of the authority.*

28 SEC. 3. *Section 94125 of the Education Code is amended to*  
29 *read:*

30 94125. The authority may employ an executive director and  
31 such other persons as are necessary to enable it properly to perform  
32 the duties imposed upon it by this chapter. *The authority may, by*  
33 *resolution, delegate to one or more of its members or its executive*  
34 *director powers and duties that it may deem proper.* The authority  
35 may delegate to the executive director the power to enter contracts  
36 on behalf of the authority. *The executive director may appoint a*  
37 *deputy executive director. In the absence of the executive director,*  
38 *the chairperson may appoint a deputy executive director.*

39 SEC. 4. *Section 8869.83 of the Government Code is amended*  
40 *to read:*

1     8869.83. (a) There is in state government the California Debt  
2 Limit Allocation Committee, consisting of six members as follows:

3     (1) The Treasurer, or his or her designee.

4     (2) The Controller, or his or her designee.

5     (3) The Governor, or his or her designee.

6     (4) The Director of Housing and Community Development,  
7 who shall be a nonvoting member.

8     (5) The Executive Director of the California Housing Finance  
9 Agency, who shall be a nonvoting member.

10    (6) A representative from local government who shall be a  
11 nonvoting member, selected by two voting members of the  
12 committee.

13    (b) The Treasurer shall serve as chairperson of the committee  
14 and the office of the Treasurer shall provide an executive director  
15 and any administrative assistance and support staff that is needed  
16 for the committee to operate. The chairperson shall keep, or cause  
17 to be kept, minutes and other records and documents of the  
18 committee. The committee may authorize the executive director  
19 to enter into contracts on behalf of the committee. *The committee*  
20 *may, by resolution, delegate to one or more of its members or its*  
21 *executive director powers and duties that it may deem proper. The*  
22 *executive director may appoint a deputy executive director. In the*  
23 *absence of the executive director, the chairperson may appoint a*  
24 *deputy executive director.*

25    (c) Members of the committee shall serve without compensation.

26    (d) Two voting members of the committee shall constitute a  
27 quorum. The affirmative vote of two voting members of the  
28 committee shall be necessary for any action taken by the  
29 committee. However, the committee may, by unanimous vote,  
30 delegate to its chairperson the authority to carry out any acts  
31 empowered to it under this chapter.

32    SEC. 5. Section 8869.94 is added to the Government Code, to  
33 read:

34    8869.94. *The committee may adopt, amend, or repeal rules*  
35 *and regulations pursuant to this chapter as emergency regulations*  
36 *in accordance with the rulemaking provisions of the Administrative*  
37 *Procedure Act (Chapter 3.5 (commencing with Section 11340) of*  
38 *Part 1 of Division 3 of Title 2). The adoption, amendment, or repeal*  
39 *of these regulations is conclusively presumed to be necessary for*

1 *the immediate preservation of the public peace, health, safety, or*  
2 *general welfare within the meaning of Section 11346.1.*

3 *SEC. 6. Section 15433 of the Government Code is amended to*  
4 *read:*

5 15433. The authority shall consist of nine members, including  
6 the State Treasurer, who shall serve as chairman, the State  
7 Controller, the Director of Finance, two members appointed by  
8 the Senate Rules Committee, two members appointed by the  
9 Speaker of the Assembly, and two members appointed by the  
10 Governor subject to confirmation by a majority vote of the Senate.  
11 Of the members appointed by the Senate Rules Committee, one  
12 member shall be a licensed physician and surgeon, and one shall  
13 serve or have served in an executive capacity to a health facility.  
14 Of the members appointed by the Speaker of the Assembly, one  
15 member shall be a person qualified by training and experience in  
16 the field of investment or finance, and one member shall be  
17 representative of the general public. The members appointed by  
18 the Governor shall be representative of the general public. The  
19 terms of appointed members shall be four years, expiring on March  
20 31. Each member shall hold office for the term of his or her  
21 appointment and shall continue to serve until a successor shall  
22 have been appointed and qualified. Any vacancy among the  
23 members shall be filled by appointment for the unexpired term  
24 only. A member of the authority shall be eligible for reappointment.

25 Members of the authority shall serve without compensation, but  
26 the authority may reimburse its members for necessary expenses  
27 incurred in the discharge of their duties.

28 *The Director of Finance may designate a deputy or other official*  
29 *in the Department of Finance to act for him or her and represent*  
30 *him or her at all meetings of the authority.*

31 *SEC. 7. Section 15434 of the Government Code is amended to*  
32 *read:*

33 15434. The chairperson of the authority on its behalf shall  
34 appoint an executive director, who shall not be a member of the  
35 authority and who shall serve at the pleasure of the authority. The  
36 executive director shall receive compensation that shall be fixed  
37 by the authority. *The executive director may appoint a deputy*  
38 *executive director. In the absence of the executive director, the*  
39 *chairperson may appoint a deputy executive director.*

1     *SEC. 8. Section 16480.1 of the Government Code is amended*  
2     *to read:*

3     16480.1. There is hereby created a Pooled Money Investment  
4     Board, which shall consist of the Controller, Treasurer and Director  
5     of Finance. The Pooled Money Investment Board shall meet at  
6     least once in every three months and shall designate at least once  
7     a month the amount of money available under this article for  
8     investment in securities authorized by Article 1 of this chapter, or  
9     in deposits in banks and savings and loan associations, or in loans  
10    to the General Fund and the type of investment or deposit.

11    The Pooled Money Investment Board may increase the amount  
12    of surplus money normally available for time deposits with the  
13    express purpose of placing this money in banks that are members  
14    of a California job development corporation and who have made  
15    loans to such a corporation or to corporation-approved borrowers.

16    For the purpose of this article, a written determination signed  
17    by a majority of the members of the Pooled Money Investment  
18    Board shall be deemed to be the determination of the board.  
19    ~~Notwithstanding the provisions of Sections 7.5 and 7.6 of this~~  
20    ~~code, the members of the board shall personally make the~~  
21    ~~determinations under this article, and may not authorize a deputy~~  
22    ~~to act for them.~~

23    *SEC. 9. Section 44515 of the Health and Safety Code is*  
24    *amended to read:*

25    44515. There is in the state government the California Pollution  
26    Control Financing Authority. The authority constitutes a public  
27    instrumentality and a political subdivision of the State of California,  
28    and the exercise by the authority of the powers conferred by this  
29    division shall be deemed and held to be the performance of an  
30    essential public function. The authority shall consist of three  
31    members: the Director of Finance, the State Treasurer, and the  
32    State Controller.

33    The Director of Finance may designate a deputy or ~~clerk in his~~  
34    ~~agency~~ *other official in the Department of Finance* to act for him  
35    or her and represent him or her at all meetings of the authority.

36    The first meeting of the authority shall be convened by the  
37    Director of Finance.

38    *SEC. 10. Section 44519 of the Health and Safety Code is*  
39    *amended to read:*

1     44519. The authority may employ an executive director and  
2 any other persons as are necessary to enable it properly to perform  
3 the duties imposed upon it by this division. *The authority may, by*  
4 *resolution, delegate to one or more of its members or its executive*  
5 *director powers and duties that it may deem proper.* The authority  
6 may delegate to the executive director the power to enter contracts  
7 on behalf of the authority. *The executive director may appoint a*  
8 *deputy executive director. In the absence of the executive director,*  
9 *the chairperson may appoint a deputy executive director.*

10     SEC. 11. Section 50199.8 of the Health and Safety Code is  
11 amended to read:

12     50199.8. The committee is composed of the Governor, or in  
13 the Governor's absence, the Director of Finance, the Controller,  
14 and the Treasurer. The Director of Housing and Community  
15 Development, the Executive Director of the California Housing  
16 Finance Agency, and two representatives of local government, one  
17 representative of the counties appointed by the Senate Rules  
18 Committee, and one representative of the cities appointed by the  
19 Speaker of the Assembly shall serve as ex officio, nonvoting  
20 members. The Treasurer shall be the chairperson of the committee.  
21 The members of the committee shall serve without compensation.  
22 A majority of voting members shall be empowered to act for the  
23 committee. The committee may employ an executive director to  
24 carry out its duties under this chapter. *The committee may, by*  
25 *resolution, delegate to one or more of its members or its executive*  
26 *director powers and duties that it may deem proper.* The committee  
27 may delegate to the executive director the authority to enter  
28 contracts on behalf of the committee. *The executive director may*  
29 *appoint a deputy executive director. In the absence of the executive*  
30 *director, the chairperson may appoint a deputy executive director.*

31     SEC. 12. Section 26008 of the Public Resources Code is  
32 amended to read:

33     26008. The authority may employ an executive director and  
34 any other persons as are necessary to enable it properly to perform  
35 the duties imposed upon it by this division. The executive director  
36 shall serve at the pleasure of the authority and shall receive such  
37 compensation as shall be fixed by the authority. *The authority may,*  
38 *by resolution, delegate to one or more of its members or its*  
39 *executive director powers and duties that it may deem proper.* The  
40 authority may delegate to the executive director the power to enter



1 contracts on behalf of the authority. *The executive director may*  
2 *appoint a deputy executive director. In the absence of the executive*  
3 *director, the chairperson may appoint a deputy executive director.*

4 SECTION 1. ~~Section 24210 of the Business and Professions~~  
5 ~~Code is amended to read:~~

6 ~~24210. (a) The department may delegate the power to hear~~  
7 ~~and decide to an administrative law judge appointed by the director.~~  
8 ~~Any hearing before an administrative law judge shall be pursuant~~  
9 ~~to the procedures, rules, and limitations prescribed in Chapter 5~~  
10 ~~(commencing with Section 11500) of Part 1 of Division 3 of Title~~  
11 ~~2 of the Government Code.~~

12 ~~(b) The amendments to this section made by Chapter 627 of the~~  
13 ~~Statutes of 1994 shall become operative on July 1, 1995.~~

14 ~~(c) (1) When the department delegates its power to hear and~~  
15 ~~decide to an administrative law judge pursuant to subdivision (a),~~  
16 ~~the licensee shall have the right to reject the director's appointed~~  
17 ~~administrative law judge and instead have an administrative law~~  
18 ~~judge appointed by the Office of Administrative Hearings. Any~~  
19 ~~appointment of an administrative law judge under this subdivision~~  
20 ~~shall be conducted pursuant to Chapter 5 (commencing with~~  
21 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~  
22 ~~Code.~~

23 ~~(2) If the licensee chooses to have the Office of Administrative~~  
24 ~~Hearings appoint an administrative law judge pursuant to this~~  
25 ~~subdivision, all costs of using the administrative law judge shall~~  
26 ~~be borne by the licensee, unless the administrative law judge~~  
27 ~~decides against the department on all of the allegations in the~~  
28 ~~accusation, in that event, the department shall bear the costs.~~